

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-598-C - ORDER NO. 2001-1096
JANUARY 18, 2002

IN RE: Application of Encompass Communications,) ORDER
L.L.C. for a Certificate of Public Convenience) GRANTING
and Necessity to Operate as a Reseller of) CERTIFICATE FOR
Interexchange Telecommunications Services) LONG DISTANCE
within the State of South Carolina.) AUTHORITY

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Encompass Communications, L.L.C. ("Encompass" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Encompass to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Encompass's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on November 1, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Encompass was represented by Scott A. Elliott, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Mr. Jamie Maddox, Secretary and Treasurer, Encompass, L.L.C., appeared and testified in support of the Application. Mr. Maddox testified that he is a Certified Public Accountant (CPA) and his duties with the Company are primarily finance related. The record reveals that Encompass is a Texas limited liability company that has received authorization to transact business within the State of South Carolina. Upon receiving certification from the Commission, Encompass plans to operate as a reseller of intraLATA and interLATA intrastate telecommunications services on a statewide basis. The record reveals that Encompass seeks authority to offer on a resale basis within South Carolina intrastate, interLATA and, to the extent authorized by the Commission, intraLATA direct-dialed services including (1+) service, flat rate service, 800 inbound service and travel cards and prepaid calling cards. Mr. Maddox stated that Encompass has no plans at this time to construct any telecommunications transmission facilities of its own in South Carolina. Encompass will operate exclusively as a "switchless" reseller. Mr. Maddox testified that Encompass will arrange for the traffic of underlying subscribers to be routed directly over the networks of Encompass's network providers. He further said Encompass plans at this time to offer only prepaid calling cards in South Carolina. He testified that Encompass plans to market those prepaid calling cards to

distributors that the Company primarily finds at trade shows around the country. He said those distributors sell to convenience stores and various outlets in the United States. Mr. Maddox offered that Encompass is currently authorized to provide telecommunications services in forty-four states and at the time of the hearing, was actually operating in twenty-two states.

Regarding the Company's technical ability to offer telecommunications services in South Carolina, Mr. Maddox testified that the Company has extensive experience in telecommunications and the prepaid business. He explained that Encompass sells prepaid calling cards as a business to business operation, has its own agents and does not do any telemarketing. Encompass does not sell calling cards directly to the end user. The record reveals that customer service is available twenty-four hours a day, seven days a week to assist customers at toll-free number (888) 738-6693. Mr. Maddox testified that the agents who answer this customer service number have the ability to fix all problems. In addition to prepaid telephone cards, Encompass also offers internet service and conferencing services. He explained that conferencing is a new product offered by Encompass which allows the user of a prepaid calling card to bridge up conference calls with twenty or thirty people. He said the Company's name and two toll-free telephone numbers actually appear on the back of each calling card. Further, Mr. Maddox stated that distributors are responsible to train the people who sell the cards at the point of purchase. The cards are sold in denominations of \$5, \$10 and \$20 and have different expiration dates; some have no expiration date at all. Mr. Maddox offered that Encompass intends to utilize MCI WorldCom, AT&T and Global Crossing as its underlying carriers. The record reveals that

Encompass will choose its underlying carriers based upon the quality of service of the carrier properly certified by the Commission to provide such service. He said Doug Williams is the Company's regulatory contact person and can be reached at (903) 323-4520.

As to Encompass's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Maddox testified that Encompass is a spinoff corporation that was started in January of 2001 from an original company that had begun offering network operator services in 1988. He said Larry A. Luna is President and Chief Executive Officer. Mr. Luna has twenty-five years of business development experience and eight years experience in the communications field. Mr. Luna holds a BBA Marketing & Management degree from Stephen F. Austin State University. Doug Williams is Vice President of Encompass and Mr. Maddox is Secretary and Treasurer. Mr. Maddox testified that Tim Martin, Ron Martin and Ron Hutchison are managers.

In support of Encompass's financial ability to provide the services it seeks to provide in South Carolina, Mr. Maddox testified that Encompass is in sound financial condition and has sufficient financial capability to maintain the services to be offered. He stated that the Company has been profitable from the beginning of its operations. Mr. Maddox affirmed the Company's obligation to file all reports required by the Commission by certain deadlines. He also acknowledged the requirement to keep South Carolina specific records of revenues. The Company also agreed to add its email address and telephone number to each tariff page.

According to the Application and Mr. Maddox's testimony, Encompass requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Encompass can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Longview, Texas. Mr. Maddox stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Encompass also requested that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA). According to Maddox, Encompass does intend to offer prepaid calling cards. He said his Company is aware of the Commission's bond requirement regarding the sale of prepaid calling cards, and is willing to post the required bond.

According to Mr. Maddox, Encompass has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said that Encompass has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Encompass has not marketed its services in South Carolina prior to receiving certification. Mr. Maddox also testified that the Company has not received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Mr. Maddox said that Encompass has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. Finally, Mr. Maddox testified Encompass will abide by all the Commission's rules, regulations and

Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina. The Company agreed to provide the Commission with the final Tariff, a copy of its Bill Form, according to 26 S. C. Code Ann. Regs. 103-612.2.2 and 103-622.1 (1976).

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Encompass is organized as a limited liability company under the laws of the State of Texas and is authorized to do business as a foreign limited liability company in the State of South Carolina by the Secretary of State.
2. Encompass operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Encompass has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Encompass to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS),

Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Encompass for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Encompass shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Encompass shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, Encompass shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, Encompass shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 102-622.1 (1976) with its final Tariff.

5. Encompass is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Encompass shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Encompass changes underlying carriers, it shall notify the Commission in writing.

8. Encompass shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Encompass shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, Encompass shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. As a condition of offering debit card services, the Commission requires the company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or

a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed annually.

If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

The Company shall amend its tariff to incorporate language that resolves the Commission Staff's concerns with the proposed rate schedule as contained in Hearing Exhibit #1. In addition, the Company shall include its name and toll-free customer service telephone number on the back of each of its prepaid calling cards.

12. By its Application and testimony at the hearing, Encompass requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants the Company's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in Texas. The Commission

also grants Encompass the opportunity to keep its books and records in accordance with GAAP rather than the USOA.

13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

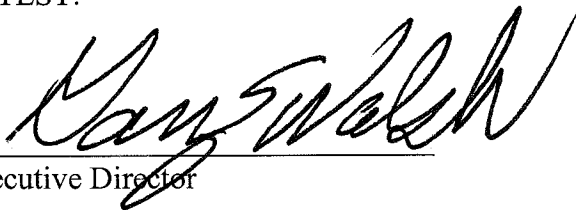
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)